### REPORT OF THE AUDIT OF THE HARLAN COUNTY SHERIFF

For The Year Ended December 31, 2008



# CRIT LUALLEN AUDITOR OF PUBLIC ACCOUNTS

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#### **EXECUTIVE SUMMARY**

## AUDIT EXAMINATION OF THE HARLAN COUNTY SHERIFF

### For The Year Ended December 31, 2008

The Auditor of Public Accounts has completed the Harlan County Sheriff's audit for the year ended December 31, 2008. Based upon the audit work performed, the financial statement presents fairly, in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

#### **Financial Condition:**

Excess fees increased by \$9,434 from the prior year, resulting in excess fees of \$749,939 as of December 31, 2008. Revenues increased by \$27,085 from the prior year and expenditures increased by \$17,651.

#### **Report Comments:**

- The Sheriff Should Comply With KRS 186A.115(1)(b) And Properly Account For Auto Inspections
- The Sheriff's Office Has A Lack Of Segregation Of Duties

#### **Deposits:**

The Sheriff's deposits were insured and collateralized by bank securities or bonds.

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# CRIT LUALLEN AUDITOR OF PUBLIC ACCOUNTS

The Honorable Joseph A. Grieshop, Harlan County Judge/Executive The Honorable Marvin J. Lipfird, Harlan County Sheriff Members of the Harlan County Fiscal Court

#### **Independent Auditor's Report**

We have audited the accompanying statement of revenues, expenditures, and excess fees regulatory basis of the Sheriff of Harlan County, Kentucky, for the year ended December 31, 2008. This financial statement is the responsibility of the Sheriff. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the Sheriff's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the Sheriff for the year ended December 31, 2008, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with <u>Government Auditing Standards</u>, we have also issued our report dated July 7, 2010 on our consideration of the Harlan County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with <u>Government Auditing Standards</u> and should be considered in assessing the results of our audit.



The Honorable Joseph A. Grieshop, Harlan County Judge/Executive The Honorable Marvin J. Lipfird, Harlan County Sheriff Members of the Harlan County Fiscal Court

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comment:

- The Sheriff Should Comply With KRS 186A.115(1)(b) And Properly Account For Auto Inspections
- The Sheriff's Office Has A Lack Of Segregation Of Duties

This report is intended solely for the information and use of the Sheriff and Fiscal Court of Harlan County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these interested parties.

Respectfully submitted,

Crit Luallen

**Auditor of Public Accounts** 

July 7, 2010

# HARLAN COUNTY MARVIN J. LIPFIRD, SHERIFF STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

#### For The Year Ended December 31, 2008

#### Revenues

Federal Grants: Bulletproof Vest Partnership		\$ 3,321
Federal Fees For Services: U.S. Army Corp of Engineers - Lake Patrol Contract		9,360
State Grants		4,719
State Fees For Services: Finance and Administration Cabinet Cabinet For Health And Family Services	\$ 125,493 2,907	128,400
Fiscal Court		79,308
County Clerk - Delinquent Taxes		3,623
Harlan County Board Of Education		15,754
Commission On Taxes Collected		413,226
Fees Collected For Services: Conveying Prisoners Auto Inspections Accident and Police Reports Serving Papers Carrying Concealed Deadly Weapon Permits Miscellaneous	6,933 10,765 164 47,864 4,500 1,526	71,752
Other: Sheriff's Cost and Advertising Sheriff's 11% Penalty Fee on Tax Telecommunications Tax Distribution	6,315 108,230 4,437	118,982
Interest Earned		8,917
Total Revenues		857,362

#### HARLAN COUNTY

#### MARVIN J. LIPFIRD, SHERIFF

STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS For The Year Ended December 31, 2008 (Continued)

#### Expenditures

Operating Expenditures:			
Materials and Supplies-	_		
Office Materials and Supplies	\$	6,430	
Other Charges-			
Conventions and Travel		2,206	
Bulletproof Vest Partnership		3,321	
Postage		414	
Equipment		2,926	
Transport Prisoners		3,734	
Training		7,932	
Miscellaneous		1,152	
Total Expenditures			\$ 28,115
Net Revenues			829,247
Less: Statutory Maximum			79,308
Excess Fees Due County for 2008			749,939
Payments to Fiscal Court - Monthly			 749,194
Balance Due Fiscal Court at Completion of Audit			\$ 745

## HARLAN COUNTY NOTES TO FINANCIAL STATEMENT

December 31, 2008

#### Note 1. Summary of Significant Accounting Policies

#### A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

#### B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the Sheriff as determined by the audit. KRS 134.310 requires the Sheriff to settle excess fees with the fiscal court at the time he files his final settlement with the fiscal court.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive) at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2008 services
- Reimbursements for 2008 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2008

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

#### C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

HARLAN COUNTY NOTES TO FINANCIAL STATEMENT December 31, 2008 (Continued)

Note 1. Summary of Significant Accounting Policies (Continued)

#### D. Fee Pooling

The Harlan County Sheriff participates in a fee pooling system with the fiscal court. Fee officials who are required to participate in fee pooling deposit all funds collected into their official operating account. Funds are then paid to the County Treasurer on a monthly basis. Invoices are submitted to the County Treasurer to document operating expenses. The County Treasurer pays almost all operating expenses for the fee official.

#### Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer, defined benefit pension plan that covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members.

Benefit contributions and provisions are established by statute. Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 16.17 percent for the first six months and 13.50 percent for the last six months of the year.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report which is a matter of public record. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

#### Note 3. Deposits

The Harlan County Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the Sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

HARLAN COUNTY NOTES TO FINANCIAL STATEMENT December 31, 2008 (Continued)

Note 3. Deposits (Continued)

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the Sheriff's deposits may not be returned. The Harlan County Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2008, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

Note 4. Drug Account

The Sheriff maintained a drug account during calendar year 2008. The drug account had a beginning balance of \$59,063 as of January 1, 2008. During 2008, the Sheriff received funds totaling \$86,524 which included interest income of \$531. The Sheriff properly expended \$141,832 resulting in an ending fund balance of \$3,755 at December 31, 2008, which is not available as excess fees.

Note 5. Governor's Highway Safety Program

The Harlan County Sheriff's office was approved to receive a Highway Safety Grant in the amount of \$9,300 during calendar year 2008. The contract period was from October 1, 2008 to September 30, 2009. The purpose of the grant is for highway safety specifically for alcohol counter measures. During calendar year 2008, the Harlan County Sheriff's office received reimbursements of \$4,719 from this grant for salary and benefits, gas allotment, and equipment. There was a remaining balance for the contract period of \$4,581 at the end of calendar year 2008.

Note 6. U.S. Army Corp of Engineers – Lake Patrol Contract

The Harlan County Sheriff's Department entered into an agreement with the U.S. Army Corp of Engineers for the period beginning May 23, 2008 and ending September 1, 2008. The purpose of the grant is to provide law enforcement services at the Martins Fork Lake, Harlan County, Kentucky. The Sheriff received reimbursements of \$9,360 during the calendar year for salary reimbursements.

Note 7. Bulletproof Vest Partnership Program

The Harlan County Sheriff's Department was approved to receive funding through the Department of Justice for reimbursement of up to 50% of the cost of approved bulletproof vest purchases. During calendar year 2008, the Sheriff received reimbursements of \$3,321 for the purchase of bulletproof vest.



REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



## CRIT LUALLEN AUDITOR OF PUBLIC ACCOUNTS

The Honorable Joseph A. Grieshop, Harlan County Judge/Executive The Honorable Marvin J. Lipfird, Harlan County Sheriff Members of the Harlan County Fiscal Court

> Report On Internal Control Over Financial Reporting And On Compliance And Other Matters Based On An Audit Of The Financial Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Harlan County Sheriff for the year ended December 31, 2008, and have issued our report thereon dated July 7, 2010. The Sheriff's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in <u>Government Auditing Standards</u> issued by the Comptroller General of the United States.

#### Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Harlan County Sheriff's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Sheriff's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Sheriff's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However as discussed below, we identified a certain deficiency in internal control over financial reporting that we consider to be a significant deficiency.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the regulatory basis of accounting such that there is more than a remote likelihood that a misstatement of the entity's financial statement that is more than inconsequential will not be prevented or detected by the entity's internal control over financial reporting. We consider the deficiency described in the accompanying comments and recommendations to be a significant deficiency in internal control over financial reporting.

• The Sheriff's Office Has A Lack Of Segregation Of Duties



Report On Internal Control Over Financial Reporting And On Compliance And Other Matters Based On An Audit Of The Financial Statement Performed In Accordance With Government Auditing Standards (Continued)

#### Internal Control Over Financial Reporting (Continued)

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statement will not be prevented or detected by the entity's internal control. Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we consider the significant deficiency described above to be a material weakness.

#### **Compliance And Other Matters**

As part of obtaining reasonable assurance about whether the Harlan County Sheriff's financial statement for the year ended December 31, 2008, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that is required to be reported under Government Auditing Standards and which is described in the accompanying comments and recommendations.

 The Sheriff Should Comply With KRS 186A.115(1)(b) And Properly Account For Auto Inspections

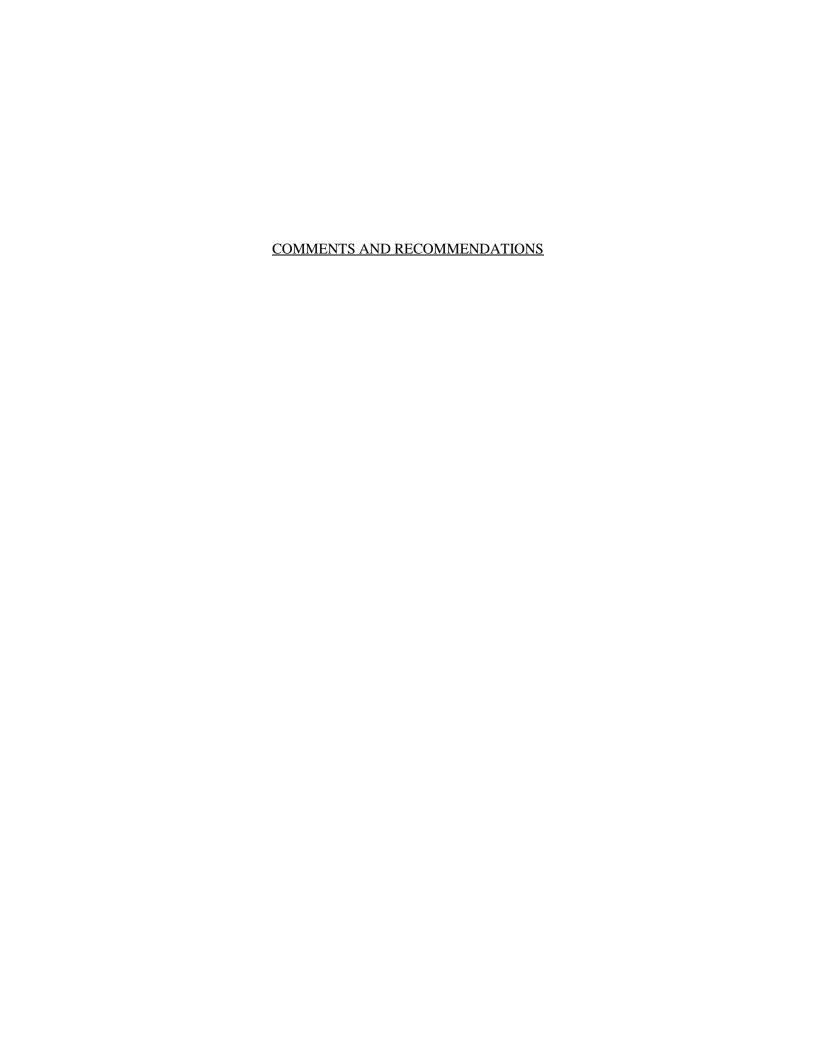
The Harlan County Sheriff's responses to the findings identified in our audit are included in the accompanying comments and recommendations. We did not audit the Sheriff's responses and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of management, the Harlan County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

Crit Luallen

**Auditor of Public Accounts** 



# HARLAN COUNTY MARVIN J. LIPFIRD, SHERIFF COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2008

#### **STATE LAWS AND REGULATIONS:**

The Sheriff Should Comply With KRS 186A.115(1)(b) And Properly Account For Auto Inspections

During the course of the audit the Sheriff brought to auditor's attention that a former deputy had performed auto inspections, primarily for one car dealership, without issuing a receipt and without properly accounting for the \$5 auto inspection fee. The Sheriff provided auditors with documentation gathered by his office relating to these auto inspections and explained his process used in gathering the information. We tested 100% of the documentation by tracing to the auto inspection forms on file in the County Clerk's office and to the Sheriff's prenumbered receipts for auto inspections on file in the Sheriff's office. Auditors identified forty-seven (47) missing receipts out of the fifty-five (55) provided by the Sheriff.

In addition to the information received from the Sheriff, auditors performed additional testing of vehicle inspections by pulling a random sample of forty-eight (48) auto inspections from auto inspection documents on file in the County Clerk's office. The test was random so all employees authorized to inspect vehicles, as well as all individuals and car dealerships requesting an inspection, were subject to be included in the test sample. Auditors identified eight (8) missing receipts from the random sample of forty-eight (48) that was tested, which account for approximately 17% of the sample selected for testing.

Based upon the results of the above testing, we requested a report from the Kentucky Department of Transportation of all transactions processed by the County Clerk's office through the AVIS system that required an auto inspection be performed. The report contained 1,599 vehicles licensed or titled that required a vehicle inspection be performed. However, testing of the report revealed that due to the way "first time new out-of-state vehicles" were coded in the AVIS system by the clerk's office they could not be picked-up on the report. Inquiry of the Sheriff and County Clerk's office indicated that these could account for more than 50% of all auto inspections performed. Therefore, the estimated number of auto inspections performed could be as high as 3,198 and the number of auto inspection receipts that were unaccounted for could be much higher had we had a complete population of transactions requiring a vehicle inspection. Our testing of the report revealed the following:

- Out of 775 transactions selected for testing, which based on estimates could account for approximately 24% of auto inspections performed during 2008, we could not locate receipts for 109 auto inspections
- This accounts for approximately 14% of auto inspections selected for testing not having a receipt or funds deposited into the 2008 fee account

Based upon testing of documentation provided to auditors by the Sheriff, testing of the random sample selected by auditors, and a random test sample of the report from the Kentucky Department of Transportation, no receipts were issued and no funds were deposited for 149 auto inspections. Of the 149 missing receipts, ninety-four (94) of these auto inspections were performed by the former deputy and fifty-five (55) by other deputies in the Sheriff's office. Also two (2) of these auto inspection fees were waived by the Sheriff.

HARLAN COUNTY MARVIN J. LIPFIRD, SHERIFF COMMENTS AND RECOMMENDATIONS For The Year Ended December 31, 2008 (Continued)

#### **STATE LAWS AND REGULATIONS:** (Continued)

The Sheriff Should Comply With KRS 186A.115(1)(b) And Properly Account For Auto Inspections (Continued)

KRS 186A.115(1)(a) states, "[e]xcept as otherwise provided in this section, the owner of every vehicle brought into this state and required to be titled in this state shall, before submitting his application for title to the county clerk, have the vehicle together with his application for title and its supporting documentation, inspected by a certified inspector in the county in which the application for title is to be submitted to the county clerk. The certified inspector shall be certified through the Department of Vehicle Regulation following requirements set forth by the department by regulation and shall be designated by the county sheriff. The certified inspector will be held responsible for all certifications required pursuant to this chapter, and shall be liable for any and all penalties prescribed in this chapter, and shall be available during office hours at any and all offices and branches that issue applications for titles." KRS 186A.115(1)(b) states, "[t]here shall be a five (\$5) fee for this certification payable to the sheriff's office, upon completion of certification." Based on this statute, the Sheriff's office should have collected an additional \$745 for auto inspections during 2008 and also, KRS 186A.115(1)(b) does not give the Sheriff the authority to waive auto inspection fees. The Sheriff is also required by KRS 186A. 115(1)(c) to charge an additional \$10 fee when the inspector has to travel offsite to perform the inspection. Since we had no way of knowing which inspections required a trip fee we only charged the \$5 as if the inspection had been performed at the courthouse. We have included the additional \$745 for auto inspections in the Statement of Revenues, Expenditures, and Excess Fees. We recommend the Sheriff pay \$745 in additional excess fees to the Harlan County Fiscal Court by either depositing personal funds and/or by obtaining the funds unaccounted for from the responsible parties. We are referring this matter to the Attorney General.

Sheriff's Response: The former deputy was not authorized to not charge the dealership for inspections and that is why I alerted the auditor to the wrong-doing and encouraged the auditor's office to refer this deputy's inspections to the Attorney General's Office.

I inherited the practice of waiving fees and not charging fees by the prior administration. I was also advised by a Revenue Field Representative that the Sheriff did have the authority to waive fees. However, procedures are now in place to charge for all vehicle inspections. We will no longer waive fees for churches or fellow police officers. Deputies have been issued prenumbered receipt books that must be accounted for. Additionally, we have implemented internal controls to reconcile receipts to vehicle inspections processed in the County Clerk's office.

HARLAN COUNTY MARVIN J. LIPFIRD, SHERIFF COMMENTS AND RECOMMENDATIONS For The Year Ended December 31, 2008 (Continued)

#### INTERNAL CONTROL - SIGNIFICANT DEFICIENCY AND MATERIAL WEAKNESS:

#### The Sheriff's Office Has A Lack Of Segregation Of Duties

A segregation of duties over various accounting functions, such as opening mail, recording cash, preparing bank deposits, writing checks, posting transactions to ledgers, reconciling bank records to the ledgers and preparing monthly reports or the implementation of compensating controls when limited by office staff is essential for providing protection from asset misappropriation and/or inaccurate financial reporting. Additionally, proper segregation of duties protects employees in the normal course of performing their daily responsibilities.

A lack of adequate segregation of duties exists over all accounting functions. One employee is responsible for opening mail, recording cash, preparing and making daily bank deposits, writing and signing disbursement checks, posting to ledgers, reconciling bank records to the receipt and disbursement ledgers and preparing monthly financial reports.

Limited budget places restrictions on the number of employees the sheriff can hire. When faced with limited staff, strong compensating controls should be in place to offset the lack of segregation of duties.

Lack of oversight could result in misappropriation of assets and/or inaccurate financial reporting to external agencies such as the Department for Local Government, which could occur but go undetected.

To adequately protect against misappropriation of assets and /or inaccurate financial reporting, the Sheriff should separate the duties involving the opening of mail, depositing of cash, disbursing of cash, posting of transactions to the ledgers, reconciling of bank records to the receipts and disbursements ledger and preparing the monthly financial reports. If, due to a limited staff, that is not feasible, strong oversight over these areas should occur and involve an employee not currently performing any of those functions. Additionally, the Sheriff could provide this oversight. If the Sheriff does implement compensating controls, these should be documented on the appropriate source document.

Sheriff's Response: We have implemented compensating controls to offset the lack of segregation of duties.